

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 280 MOC WCM

MEGHAN MARIE NEIRA,)	
individually and on behalf of similarly)	
situated persons)	
)	INITIAL
Plaintiff,)	SCHEDULING
v.)	ORDER
)	
GOODFELLA’S PIZZA, INC. and)	
AARON FOX,)	
)	
Defendants)	
_____)	

Before the Court is the Certification and Report of Fed. R. Civ. P. 26(f) Conference and Discovery Plan filed jointly by the parties (the “Report,” Doc. 12).

On September 27, 2019, Plaintiff filed the Complaint in this matter which is brought as a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*

Subsequently, on March 21, 2020, Plaintiff filed a Motion to Conditionally Certify a Collective Action and Facilitate Notice Under 29 U.S.C. § 216(B) (the “Conditional Certification Motion,” Doc. 10). The Conditional Certification Motion is currently pending before the presiding District Judge. Defendants’ deadline for filing a response is May 6, 2020.

The parties' Report was filed on March 24, 2020. In it, the parties request that this action proceed in two phases. Phase One would be limited to the District Court's consideration of Plaintiff's Conditional Certification Motion. The parties could also participate in discovery regarding certification issues and settlement discussions. Doc. 12, p. 1. The parties request that Phase Two begin immediately after either the close of any opt-in period, if the Motion to Conditionally Certify is allowed, or the denial of the Motion and suggest that the parties meet and confer within 30 days after Phase Two begins to conduct a second scheduling conference. Doc. 12, pp. 1-2.

The undersigned finds that a phased approach, as described by the parties, is appropriate.

IT IS THEREFORE ORDERED THAT:

1. An initial pretrial phase ("Phase One") will begin immediately and will conclude upon a ruling on Plaintiff's Motion to Conditionally Certify a Collective Action and Facilitate Notice Under 29 U.S.C. § 216(B) (Doc. 10). During Phase One, the parties may agree to conduct discovery (with respect to certification issues only) and to engage in settlement negotiations.
2. Within fourteen (14) days of a ruling on Plaintiff's Motion to Conditionally Certify a Collective Action and Facilitate Notice

Under 29 U.S.C. § 216(B) (Doc. 10), the parties shall file an Amended Certification and Report of Fed. R. Civ. P. 26(f) Conference and Discovery Plan setting forth a proposed discovery plan as to the remainder of the pretrial period.

Signed: March 31, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

